

1873-012
Lee Co.

Chancery Causes: William Marion & wife & vs. Francis Marion &

Carroll, Rutherford, Carrol

1 Plat

CA - Estate Dispute
T - Property

- Deed

To the Honorable Henry J. Morgan Judge of the
County Court of Lee County Virginia:

The bill of Complaint of William Marion,
and ~~Jeannina Marion~~ ^{his wife} Mary Carroll, ~~Barbary Marion~~, and Alexander Ruth-
-erford, and Matilda Rutherford, ^{and Mary Marion} ~~his wife~~, humbly
Complaining respectfully represents that About the
Year 1870 One William Marion Sr. departed this
life intestate in Lee County Virginia leaving a
Tract of about acres of Land lying and being
on the north Side of Powells Mountain near Hunters
Gap in Lee County adjoining the Lands of A. R. Surge-
-ner Prestons' Koller and others which Tract was
Conveyed to him by Benjamin D. Martin which Deed
of Conveyance is herewith filed Marked (A) and
made a part of this bill. Your orators will
here state that the Said William Marion Sr. decd
had the following Children to wit Your Orators
William Marion Mary Carroll Barbary Marion &
Matilda Rutherford who are still living and
Jackson Marion and Pleasant Marion who died
before Wm. Marion Sr. but they left at their
death the following Children to wit Francis
Minerva and Mary Marion who are infant Children
of the Said Jackson Marion decd and Jefferson
B. Marion who is an infant Son of Pleasant
Marion decd. The Said Wm. Marion Sr. left at
his death the Said Mary Marion ^{as} his widow
and who is entitled to Dower in his estate,
And the Said William Marion, Mary Carroll, Barbary
Marion and Matilda Rutherford are each entitled
to the one Sixth part of their fathers estate
as his Children and heirs and the infant Chil-
dren of Jackson Marion decd to wit: Francis,
Minerva, and Mary Marion are jointly.

entitled to one sixth part of Said estate and
the infant Son of Pleasant Marion decd. to wit
Jefferson B. Marion is also entitled to one sixth
part of Said estate and Your Orators alleged
that ~~the~~ Said real estate of Wm. Marion Sr.
deceased is liable to a partition which is
the object of this Bill and the widow Mary
Marion, is entitled to Dower out of the Same
which she Claims and asks to be assigned to her.

Your Orators being without an adequate
remedy at law and best relivable in a Court
of ^{equity} ~~law~~ their prayer therefore is that the Said
infants to wit Francis Marion, Minerva Marion
and Mary Marion, and Jefferson B. Marion
be made the parties defendant to this Bill and
that they be summoned to answer the Same and that
a Guardian ad litem be appointed to appear
answer and defend for them in this Cause and
that upon a hearing of this Cause a partition
of Said land, ^{and assignments of Dower} be decreed among the parties
entitled to the Same and that Commissioners
be appointed for that purpose and such
other further and general relief be extended to
Your Orators as may be Consistent with equity
and justice and best Suit to their Case

May the Commonwealth's writ of Sp. issue &c.

David Miller
for Compls.

M

Wm. Marion & others
vs. Bill in Chy.

Francis Marion & others

1872 June Bill Filed, John D. Sharp
Sept 15 Q. A. L. who filed his dues
& set for hearing By, 1872.

" June Term Decree for Partition
& Continued,

" July, Aug, Sept, Oct, Nov, Dec
Conte.

1873. Jan. Decree Final.

C.	10.50	
A.	15.00	
S.	2.00	
Q. A. L.	5.00	Sharp
Cont. record	6.00	
" 1872-73	2.00	
" 1873-74	2.50	
	42.50	

Wm Marion, et al, Pltffs, /

vs } Answer of
Francis Marion, et al, Defts } Guardian ad Litem

The Defts, Francis Marion,
Minerva Marion & Mary Marion Jr, Infant
Children & Heirs at Law of Jackson Marion Decd,
and Jefferson B. Marion, Infant child and Heir
at Law of Pleasant Marion Decd, come into
Court, and by their Guardian ad Litem,
John D. Sharp, and for answer to the Bill
of Complaint filed by said Wm Marion, et al,
against them, say, that they are minors, and
have no knowledge of the matters and
things, as stated in Complainants bill, they
ask therefore that Complainants be required
to fully prove the said allegations. They neither
admit, or deny the same. ^{but suppose there can be no objection to the partition} Being of tender age
~~they~~ objects of the peculiar care of a Court of
Chancery, they therefore ask that this Court
Protect them in all their rights & interests
in the premises.

Having fully answered Compltts bill,
so far as they are advised it is necessary for
them to answer the same, they pray to
be hence dismissed with their costs ex-
pended by them in this Cause.

And they will ever pray &c.

Fee of Guardian ad Litem
\$5.00

Francis Marion
Minerva Marion
Mary Marion Jr.
Jefferson B. Marion

By John D. Sharp, Their
Guardian ad Litem.

Francis Marion et al,

at al } answer of
Guardian ad Litem

Francis Marion et al

Filed at June Rules 1872.

Mrs. Marion & others plaintiffs }
against } Decree final
Francis Marion & others Defendants }

This Cause came on this day again to be heard upon the papers formerly read in the Cause and the report of the Commissioners who made a partition of this land in the Bill mentioned pursuant to a former decree of this Court and was argued by Counsel and it appearing to the Court that said Commissioners report had been filed in this Cause for more than ten days before this term of the Court and no exceptions having been filed thereto on consideration of all which It is hereby adjudged ordered and decreed that the said report be and is hereby confirmed and that the widow Mary Marion Sr. hold the lot assigned to her during her natural life as and for her Dower in said land and that the other parties hold the lots thereby allotted and assigned to them together with the appurtenances belonging to each according to said Commissioners report and the share of Mary Carol is subject entirely to the life time Dower of Mary Marion Sr. the widow and the share of Matilda Kutherford is partly subject to the life time Dower of Mary Marion Sr. the widow and the rest of the shares and lots are entirely free from said Dower. And the Clerk of this Court is directed to record said Commissioners Report and the plat accompanying the same and this decree in the Deed Book in his office. And the Court doth further order adjudge and decree that the parties to this suit except the widow Mary Marion Sr. do each pay their part of the taxable Costs of this suit in proportion to their interests in the land partitioned and when the Guardians of the Minor parties shall

pay their part of the Costs then a receipt therefor
will be a proper voucher for them in a Settlement
with a Commissioner of accounts. And nothing fur-
ther appearing necessary in the Cause it is hereby
ordered to be Stricken from the Docket,

Amos Marion & others
vs. ~~Amos Marion & others~~
Decree final
Entered in Marion & others
in Term Order Book 1190
114.
Amos Marion & others

Enter this Decree
H. S. Morgan
Jan 21 1873

Wm. Marion & others Plffs. }
 against } Decree for partition
 Francis Marion & others Defs.

On the motion of Complainants by their attorney John D. Sharp was appointed Guardian ad litem in this Cause for the infant defendants Francis Marion, Minerva Marion, Mary Marion Jr., and Jefferson B. Marion who asked leave to file his answer and the same is accordingly filed and thereupon this Cause came on this day to be heard upon the bill of Complaint and exhibit therewith and the answer of the infant Defendants Francis Marion, Minerva Marion, Mary Marion Jr. and Jefferson B. Marion by John D. Sharp their Guardian ad litem and was argued by Counsel and it appearing to the Court that the plaintiff Mary Marion Sr. is entitled to dower in the lands belonging to the estate of ^{William} ~~Henry~~ Marion Sr. Deceased and the other plffs. and Defendants are entitled as heirs at law of William Marion deceased to the land in the bill mentioned and belonging to the estate of Wm. Marion deceased, It is therefore adjudged ordered and decreed that John W. Sword Abraham R. Surgenor and Russell B. Devault be and are hereby appointed Commissioners whose duty it shall be to assign to the widow Mary Marion Sr. dower in the real estate of Wm. Marion Sr. decd. and make partition of said real estate among the parties to this suit quantity and quality considered according to their respective rights and interests in the same

That is to say they will lay off and assign to plaintiffs Wm. Marion, Mary Carroll, Barbary Marion, and Matilda Kutherford each the one sixth part of Said real estate and they will lay off and assign to Defendants Francis Marion, Minerva Marion and Mary Marion Jr. jointly the one sixth part of Said real estate and they will lay off and assign to Defendant Jefferson B. Marion the one sixth part of Said real estate and they will make report and return a plat with the same to a future term of this Court and the Cause is Continued

Wm. Marion & others

vs.
Decree

of Francis Marion & others

Entered into Book

page 66.

James W. Br. Clerk.

Enter the decree

H. L. Martin

June 22 1872

1877

at a court of winter sessions commenced at 1 o'clock for Les Termes,
at the court house thereof, on Saturday the 22nd day of June 1877.
William Marion & others } Plaintiffs
against }
Francis Marion & others } Defendants

It is therefore adjudged, ordered and decreed that John W. Seward, Abraham H. Surgenor, and Percival B. Danault be and are hereby appointed Commissioners whereby it shall be to assign to the widow Mary Marion Dr. Seward in the real estate of William Marion Dr. deceased, and make partition of said real estate among the parties to this suit, quantity and quality considered, according to their respective rights and interests in the same, That is to say they will lay off and assign to plaintiffs William Marion, Mary Carroll, Barbara Marion, and Matilda Rutherford, each the one sixth part of said real estate, and they will lay off and assign to defendant Jefferson B. Marion the one sixth part of said real estate, and they will make report, and return a plat with the same to a future term of this Court, and the cause is continued

At copy

Teste

James W. Orr. Clerk.

Francis Marion & others

Copy of Decree

Francis Marion & others

Presented by delivering
a true copy of the
written notice to each
one of the defendants
July 25th 1842

W. A. Aubaker
Esq. for C. L. Hamblen & Co

He the undersigned commissioners appointed by an order of the Court of Lee County, to lay off and assign to Mary Marion Sr. dower in the real estate of William Marion, deceased, and to make partition of said real estate among the heirs of said William Marion Sr.

Report that we have performed that duty, and that said real estate consists of a tract of land lying in Lee County on the North side of Powels Mountain near Hunters Gap. Beginning on a stake in the edge of the Blackwater road on Smith's line thence S 5 E 30 p to a stake by said road, S 43 E 82 p to a stake on the top of Powels Mountain, thence with the top of said Mountain N 69 E 160 p to a stake, N 30 W 102 p to a stake in Smith's line, thence with said line S 70 W 164 p to the Beginning, containing 109 acres. and we have assigned to the said widow Mary Marion Sr. her dower on the west end of said land Beginning on a stake on the Smith line in the edge of the Blackwater road S 5 E 30 p to a stake by said road, S 43 E 82 p to a stake on the top of Powels Mountain, thence with the top of said Mountain N 69 E 42 p to a stake, N 30 W 106 p to a stake in Smith's line, S 70 W 46 p to the Beginning containing 30 acres, according to the annexed plat marked Dower. Mary Carrol's share we have laid off and assigned to her wholly in the Dower. Beginning at a stake on Smith's line in the edge of the Blackwater road thence S 5 E 30 p to a stake by said road S 43 E 82 p to a stake on top of Powels Mountain thence with the top of said Mountain N 69 E 27 p to a stake N 30 W 106 p to a stake in Smith's line S 70 W 31 p to the Beginning containing, according to the annexed plat marked A, 21 Acres

Matilda Butcherford's share we have laid off and assigned to her partly in the dower Beginning on a stake in Smith's line thence S 30 E 106 p to a stake on top of Powels Mountain thence with the top of said Mountain N 69 E 29 p to a stake N 30 W 105 p to a stake in Smith's line thence with said line S 70 W 29 p to the Beginning, containing 20 Acres according to the annexed plat marked B. and she is also to have the house in which she now lives with liberty to move the same, or if she chooses to live in the house where it now stands she is to have one quarter of an Acre around it (the house being in the center) so long as she chooses to occupy the same, also access to the spring

And all parties are to have right of way one rod wide along the Smith line to road water &c

John W. Sword.
Abraham R. Surgenor. } Commr.
Russell B. Devault.

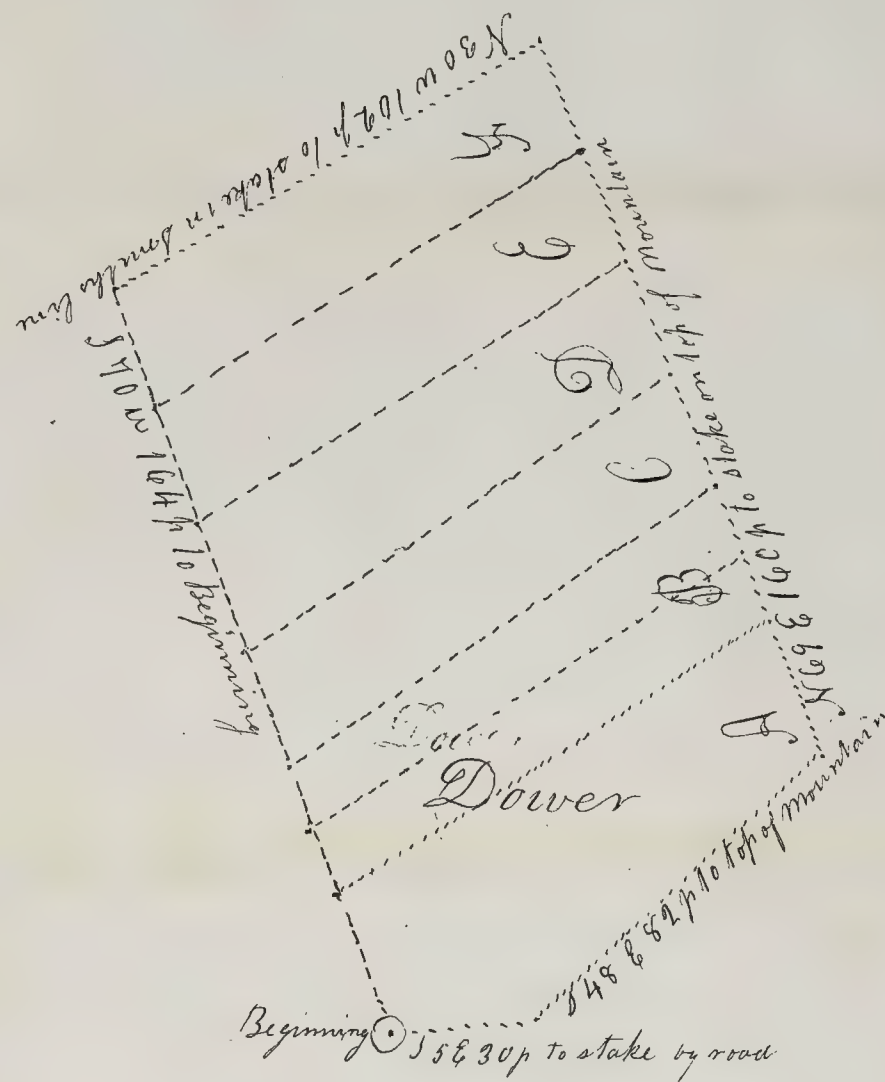
Virginia

At a county court continued and held for Gen.
Leaunt at the court house thereof on Tuesday
January 21st 1873

Mr. Theron, etc. etc.

Francis Marion et al

This cause came on this day again to be heard upon the paper formerly read in the case — and the



Apr 11 record	86.00
A. B. Carpenter	2.00
M. B. Bennett	2.00
	90.00

and of the commissioners who made a partition of
 the lands in the bill mentioned pursuant to a particu-
 lar of this Court and were argued by counsel
 and it appearing to the Court that said commissioners
 report presumptive in this case for more than
 ten days before this Term of the Court and no ex-
 ceptions being filed thereto on consideration of all which
 it is hereby adjudged, ordered and decreed that the said
 Court report be and is hereby confirmed. & & &

Attest

Teste 11th J. An. 1861

For Francis Marion

10th J. An. 1861

Francis Marion

10th J. An. 1861

Francis Marion

10th J. An. 1861

10th J. An. 1861

10th J. An. 1861

Deed made the 15th day of February in the year of our
Lord one thousand eight hundred and fifty nine between
Benjamin D. Norton and Elizabeth C. his wife of the
County of Lee and State of Virginia of the 1st part, and
William Marion of the County of Lee and State of Virginia of
the second part. It is covenanted that in consideration of the
sum of four hundred and fifty dollars the said party of
the first part do grant unto the said party of the second
part, a certain tract or parcel of land, lying and being in the
County of Lee on the north side of Crook's Mountain, whereon
the said Marion now lives, it being a part of the land sold by
Leah's Child to Benjamin Dickerson and a tract of 72 acres
sold by Harvey Langherty to St. Benjamin Dickerson and bounded
as follows: Beginning at a Stake in the side of the straight line
in the edge of the Black Water Road; thence southerly with St.
Mountain and with St. Road to a Stake below the Spring;
thence running St. Road across said Mountain to a large Pop-
lar Hickory below St. Spring a line tree; thence still up St.
Mountain and with a line of the said 72 acre survey to a Stake
on the top of said Mountain; thence easterly with the
same to a Stake another corner of St. 72 acre survey; thence
easterly down St. Mountain with a rather line of St. 72 acre
survey to the said Check Post; and with a line thereof to a Stake
in the St. Smith line; thence northerly with the said Smith
line to the Beginning. And the said Benjamin D. Norton
and Elizabeth C. his wife do covenant that they will warrant
peaceably the land hereby conveyed. Witness the following signatures
and seals— Benjamin D. Norton

The County Court Clerk Office the 22nd day of February 1859.
This instrument of bargain and sale for land, between Benjamin
D. Norton, and Elizabeth C. his wife of the one part, and William
Marion of the other part, was acknowledged before me by

The said Benjamin L. Martin, was admitted to record
as to him.
W. J. Morgan. Secy.

Acopy

Lucas George W. D. C.

William Marion
true Copy of Deed
Benjamin L. Martin

(Exhibit B.)

True for Copy (B.)

The Commonwealth of Virginia :

TO THE SHERIFF OF LEE

COUNTY—GREETING:

WE command you to summon *Francis Marion, Minerva Marion, Mary Marion Jr, and Jefferson B. Marion.*

to appear at the clerk's office of the county court of Lee, at the court house, on the first Monday in *July* next, being Rule day, to answer a bill in chancery exhibited in our said court against *them* by *Wm. Marion, & Minerva Marion his wife, Mary Canalt, Barbara Marion, Alexander Rutheford & Matilda Rutheford his wife, and Mary Marion & r.*

and unless *they* shall answer the said bill within one month thereafter, the same will be taken for confessed, and the said court will decree accordingly. And have then there this writ. Witness, JAS. W. ORR, clerk of our said court at the court house, the *5th* day of *May* 1872, in the *56th* year of the Commonwealth.

James W. Orr, Clerk.

William Marion & Co.
Solicitors at Law

Francis Marion & Co.
July Rules 1872

Received by order
an attested copy
Copy to Francis Marion
July 1872